

REMARKS

Claims 1 through 3, 5 through 8, 12 through 17, 27, 28, 30, 31, and 33 through 42 are pending in this Application. Claims 9 through 11, and 32 have been cancelled without prejudice or disclaimer. Claims 1 through 3, 5 through 8, 12, 27, 28, 30, 31, and 33 through 38 have been amended, and new claims 39 through 42 have been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the Abstract, FIGs. 2 and 3, ¶¶[0001], [0025] through [0030], [0033], and [0035] through [0038] of the corresponding US Pub. No. 2003/0005448. Applicants submit that the present Amendment does not generate any new matter issue.

Personal Interview of December 30, 2009.

Applicants express appreciation for the Examiner's courtesy in granting and conducting a personal interview on December 30, 2009. During the interview, the Examiner indicated that the present claim amendments would overcome the objection and rejections of record. It is with that understanding that the present Amendment is submitted.

Claim Objection.

The Examiner objected to claim 12, identifying a perceived informality. In response, the recitation of "Th e" in claim 12 has been replaced by a "The", thereby overcoming the stated basis for the objection. Applicants therefore solicit withdrawal of the claim objection.

Claims 27 and 31 through 38 were rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter.

This rejection is traversed. Specifically, 32 has been cancelled without prejudice or disclaimer, and claims 27, 31, and 33 through 38 have been clarified by reciting “A non-transitory computer-readable storage medium”, which is clearly statutory subject matter within 35 U.S.C. §101. Applicants therefore solicit withdrawal of the rejection of claims 27 and 31 through 38 under 35 U.S.C. §101.

Claims 1, 2, 5 through 7, 9 through 17, 27, 30, 32, and 38 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis et al.* (US 20060031883, “*Ellis*”) in view of *Finseth et al.* (US 6813775, “*Finseth*”) and *Collins et al.* (US 6424828, “*Collins*”).

In the statement of the rejection the Examiner concluded that one having ordinary skill in the art would have been led to modify *Ellis*’s interactive TV program guide to include *Finseth*’s step of transmitting notification of a future program of interest, so that a user from the first terminal can send recommendations of programs to a second user, thereby allowing friends and acquaintances to highlight programs to each other. Still not there, the Examiner further concluded that one having ordinary skill in the art would then have been led to modify whatever system can be said to have been reasonably suggested by the combined disclosures of *Ellis* and *Finseth* to enable the modifications additionally forward to a mobile handset as an SMS in view of *Collins*, so that users can received notifications when they are not in proximity to their televisions. This rejection is traversed.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically,

independent claims 1 and 27 are directed to an apparatus that sends a notification of a program of interest, and recite, *inter alia*: “**said notification including at least one of a reminder flag and a recording flag.**” Independent claim 30 is directed to an apparatus that receives a notification of a program of interest, and recites, *inter alia*: “the notification contains a mobile alert flag... a recording flag, a reminder flag...”, , As acknowledged by the Examiner and supervisor during the personal interview, none of *Ellis*, *Finseth* and *Collins* discloses or suggests an apparatus having these features.

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicants, therefore, submit that the imposed rejection of claims 1, 2, 5 through 7, 9 through 17, 27, 30, 32, and 38 under 35 U.S.C. §103(a) for obviousness based on *Ellis* in view of *Finseth* and *Collins* is not factually or legally viable and, hence, solicit withdrawal thereof.

Claims 3, 8, 33, and 35 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Finseth*, *Collins*, and *Haken* (US 2004/0008972, “*Haken*”).

This rejection is traversed.

Claims 3 and 8 depend from independent claim 1, and claims 33 and 35 depend from independent claim 27. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1 and 27 under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis*, in view of *Finseth* and *Collins*. The additional reference to *Haken* does

not cure the previously argued deficiencies in the attempted combination of *Ellis*, *Finseth*, and *Collins*.

Accordingly, even if all of the applied references were combined as proposed by the Examiner, and again Applicants do not agree that the requisite basis for the asserted motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp., supra*. Applicants, therefore, submit that the imposed rejection of 3, 8, 33, and 35 under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Finseth*, *Collins*, and *Haken* is not factually or legally viable and, hence, solicit withdrawal thereof.

Claim 28 was rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Collins*.

This rejection is traversed. Independent claim 28 recites features similar to those in independent claim 1. Accordingly, claim 28 is free of the applied prior art for reasons advocated *supra* in traversing the rejection of independent claim 1 under 35 U.S.C. §103(a) for obviousness based on *Ellis* in view of *Finseth* and *Collins*. Applicants, therefore, submit that the imposed rejection of claim 28 under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Collins* is not factually or legally viable and, hence, solicit withdrawal thereof.

Claims 31, 34, 36, and 37 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Finseth* and *Collins*.

This rejection is traversed. Independent claim 31 recite features similar to those in independent claim 30. Accordingly, claim 31 is free of the applied prior art for reasons advocated

supra in traversing the rejection of independent claim 30 under 35 U.S.C. §103(a) for obviousness based on *Ellis* in view of *Finseth* and *Collins*. .

Claims 34, 36, and 37 depend from independent claim 27. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 27 under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis*, in view of *Finseth* and *Collins*.

Applicants, therefore, submit that the imposed rejection of 31, 34, 36, and 37 under 35 U.S.C. §103(a) for obviousness predicated upon *Ellis* in view of *Finseth*, and *Collins* is not factually or legally viable and, hence, solicit withdrawal thereof.

New claims 39 through 42.

New independent claim 42 recites features similar to those in independent claim 30 and, hence, is free of the applied prior art for reasons advocated *supra* with respect to independent claim 30. New claims 39 through 41 depend from claim 28. Applicants submit that claims 39 through 41 are free of the applied prior art for reasons advocated *supra* with respect to claim 28. Accordingly, claims 39 through 42 are free of the applied prior art.

Based upon the foregoing, it is apparent that the imposed objection and rejections have been overcome, and that all pending claims are in condition for allowance. Favorable consideration is therefore respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9954 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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